

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CA. NO. 03CV12210 MLW

JOHANZ X. SANTOS, ppa DENISE COLON,
DENISE COLON, Individually, JESUS SANTOS
Plaintiffs,

v.

BOB'S DISCOUNT FURNITURE; REGENT
HOME DELIVERY, AGNILIZ ACOSTAS;
RAUL SANTOS,
Defendants.

ANSWER AND JURY CLAIM OF THE
DEFENDANT, BOB'S DISCOUNT FURNITURE

Now comes the defendant, Bob's Discount Furniture, Inc., in the above-entitled action and hereby answers the numbered paragraphs of plaintiff's Complaint as follows:

1. The defendant, Bob's Discount Furniture, Inc., does not possess knowledge or information sufficient to admit or deny the truth or falsity of the allegations contained herein.
2. The defendant, Bob's Discount Furniture, Inc., does not possess knowledge or information sufficient to admit or deny the truth or falsity of the allegations contained herein.
3. The defendant, Bob's Discount Furniture, Inc., does not possess knowledge or information sufficient to admit or deny the truth or falsity of the allegations contained herein.
4. The defendant, Bob's Discount Furniture, Inc., does not possess knowledge or information sufficient to admit or deny the truth or falsity of the allegations contained herein.
5. The defendant, Bob's Discount Furniture, Inc., does not possess knowledge or information sufficient to admit or deny the truth or falsity of the allegations contained herein.

6. The defendant, Bob's Discount Furniture, Inc., admits the allegations contained in paragraph 6 of the Complaint.
7. The defendant, Bob's Discount Furniture, Inc., denies each and every allegation pertaining to Bob's Discount Furniture, Inc.

JURISDICTION

8. The defendant, Bob's Discount Furniture, Inc., denies jurisdiction of this Court has been properly asserted.

FACTS

9. The defendant, Bob's Discount Furniture, Inc., denies each and every allegation pertaining to Bob's Discount Furniture, Inc.
10. The defendant, Bob's Discount Furniture, Inc., does not possess knowledge or information sufficient to admit or deny the truth or falsity of the allegations contained herein.
11. The defendant, Bob's Discount Furniture, Inc., denies each and every allegation pertaining to Bob's Discount Furniture, Inc.

COUNT I

Negligence Against Defendants, Bob's Discount Furniture and Regent Home Delivery by Plaintiff Johanz X. Santos, ppa Denise Colon

12. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through eleven above, as if fully set forth herein.
13. The defendant, Bob's Discount Furniture, Inc., denies each and every allegation pertaining to Bob's Discount Furniture, Inc.
14. The defendant, Bob's Discount Furniture, Inc., denies each and every allegation pertaining to Bob's Discount Furniture, Inc.

COUNT II

Negligent Entrustment Against Defendant Agnaliz Acostas by Plaintiff Johanz X. Santos, ppa Denise Colon

15. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through fourteen above, as if fully set forth herein.
16. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 16 of plaintiff's Complaint do not require any answer by this defendant.

COUNT III

**Negligence Against Defendant Raul Santos by
Plaintiff Johanz X. Santos, ppa Denise Colon**

17. The defendant, Bob's Discount Furniture, repeats and realleges its responses set forth in paragraphs one through sixteen above, as if fully set forth herein.
18. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 18 of plaintiff's Complaint do not require any answer by this defendant.

COUNT IV

**Loss of Consortium Against Defendant Bob's Discount
Furniture Store by Plaintiff, Denise Colon**

19. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through eighteen above, as if fully set forth herein.
20. The defendant, Bob's Discount Furniture, Inc., denies each and every allegation contained in paragraph 20 of plaintiff's Complaint and the defendant calls for strict proof of each and every allegation stated therein.

COUNT V

**Loss of Consortium Against Bob's Discount
Furniture by Plaintiff, Jesus Santos**

21. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through twenty-one above, as if fully set forth herein.
22. The defendant, Bob's Discount Furniture, Inc., denies each and every allegation contained in paragraph 22 of plaintiff's Complaint and the defendant calls for strict proof of each and every allegation stated therein.

COUNT VI

**Loss of Consortium Against Defendant, Agnualiz
Acostas by Plaintiff Denise Colon**

23. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through twenty-two above, as if fully set forth herein.
24. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 24 of plaintiff's Complaint do not require any answer by this defendant.

COUNT VII

**Loss of Consortium Against Defendant, Agnaliz
Acostas by Plaintiff Jesus Santos**

25. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through twenty-four above, as if fully set forth herein.
26. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 26 of plaintiff's Complaint do not require any answer by this defendant.

COUNT VIII

**Loss of Consortium Against Defendant, Regent Home
Delivery by Plaintiff Denise Colon**

27. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through twenty-six above, as if fully set forth herein.
28. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 28 of plaintiff's Complaint do not require any answer by this defendant.

COUNT IX

**Loss of Consortium Against Defendant, Regent Home
Delivery by Plaintiff Jesus Santos**

29. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through twenty-eight above, as if fully set forth herein.
30. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 30 of plaintiff's Complaint do not require any answer by this defendant.

COUNT X

**Loss of Consortium Against Defendant
Raul Santos by Plaintiff Denise Colon**

31. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through thirty above, as if fully set forth herein.
32. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 32 of plaintiff's Complaint do not require any answer by this defendant.

COUNT XI

**Loss of Consortium Against Defendant
Raul Santos by Plaintiff, Jesus Santos**

33. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through thirty-two above, as if fully set forth herein.
34. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 34 of plaintiff's Complaint do not require any answer by this defendant.

COUNT XII

**Negligent Infliction of Emotional Distress Against Defendant
Bob's Discount Furniture by Plaintiff Denise Colon**

35. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through thirty-four above, as if fully set forth herein.
36. The defendant, Bob's Discount Furniture, Inc., denies each and every allegation contained in paragraph 36 of plaintiff's Complaint and the defendant calls for strict proof of each and every allegation stated therein.
37. The defendant, Bob's Discount Furniture, Inc., denies each and every allegation contained in paragraph 37 of plaintiff's Complaint and the defendant calls for strict proof of each and every allegation stated therein.

COUNT XIII

**Negligent Infliction of Emotional Distress Against Defendant
Regent Home Delivery by Plaintiff Denise Colon**

38. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through thirty-seven above, as if fully set forth herein.
39. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 39 of plaintiff's Complaint do not require any answer by this defendant.
40. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 40 of plaintiff's Complaint do not require any answer by this defendant.

COUNT XIV

**Negligent Infliction of Emotional Distress Against Defendant
Agnaliz Acostas by Plaintiff Denise Colon**

41. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through forty-one above, as if fully set forth herein.
42. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 42 of plaintiff's Complaint do not require any answer by this defendant.
43. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 43 of plaintiff's Complaint do not require any answer by this defendant.

COUNT XV

**Negligent Infliction of Emotional Distress Against
Raul Santos by Plaintiff Denise Colon**

44. The defendant, Bob's Discount Furniture, Inc., repeats and realleges its responses set forth in paragraphs one through forty-four above, as if fully set forth herein.
45. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 45 of plaintiff's Complaint do not require any answer by this defendant.
46. The defendant, Bob's Discount Furniture, Inc., states that the allegations contained in paragraph 46 of plaintiff's Complaint do not require any answer by this defendant.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

And further answering, the defendant, Bob's Discount Furniture, Inc. says that the injuries and damages alleged were caused in whole or in part by the plaintiff's own negligence which was greater than any negligence of the defendant.

SECOND AFFIRMATIVE DEFENSE

And further answering, the defendant, Bob's Discount Furniture, Inc., says that the plaintiff has failed to set forth a cause of action against this defendant.

THIRD AFFIRMATIVE DEFENSE

And further answering, the defendant, Bob's Discount Furniture, Inc., says that the plaintiff was guilty of a violation of law which contributed to the happening of the alleged accident.

FOURTH AFFIRMATIVE DEFENSE

And further answering, the defendant Bob's Discount Furniture, Inc., says that the motor vehicle involved in the alleged accident or collision was not than being operated by and under the control of a person for whose conduct the defendant was legally responsible.

FIFTH AFFIRMATIVE DEFENSE

And further answering, the defendant, Bob's Discount Furniture, Inc., says that the plaintiff was not in the exercise of due care, but rather the negligence of the plaintiff contributed to cause the injury or damage complained of. Wherefore, the recovery of the plaintiff is barred in whole or in part, or is subject to diminution.

SIXTH AFFIRMATIVE DEFENSE

And further answering, the defendant, Bob's Discount Furniture, Inc., says that if the plaintiff sustained damages, as alleged in the complaint, they were caused by acts of a third person, which acts the defendant had no reason to anticipate and of which person the defendant had no knowledge and for whose conduct the defendant is not legally responsible.

SEVENTH AFFIRMATIVE DEFENSE

And further answering, the defendant, Bob's Discount Furniture, Inc., says that the complaint of the plaintiff fails to state a claim against the defendant upon which relief can be granted.

EIGHTH AFFIRMATIVE DEFENSE

The defendant, Bob's Discount Furniture, Inc., says that the plaintiff has failed to secure proper and sufficient service of process.

NINTH AFFIRMATIVE DEFENSE

And further answering, the defendant, Bob's Discount Furniture, Inc., states that the Court lacks personal jurisdiction over the defendant.

TENTH AFFIRMATIVE DEFENSE

And further answering, the defendant, Bob's Discount Furniture, Inc., says that the court lacks jurisdiction over the matter.

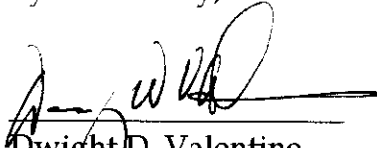
ELEVENTH AFFIRMATIVE DEFENSE

And furthering answering the defendant, Bob's Discount Furniture, Inc., says this Court is not the proper venue.

JURY CLAIM

The defendant, Bob's Discount Furniture, Inc., demands a jury trial on all issues triable before a jury.

Defendant,
BOB'S DISCOUNT FURNITURE, INC.
By its attorney,

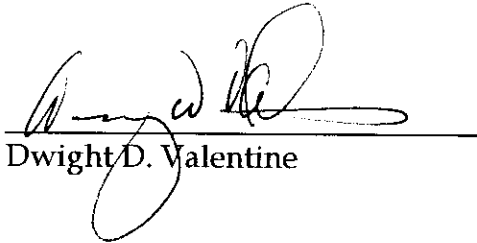


Dwight D. Valentine
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BBO #507200

CERTIFICATE OF SERVICE

I, Dwight D. Valentine, Attorney for the Defendant, Bob's Discount Furniture, Inc., hereby certifies that on this 21st day of January 2004, I served the within ***Answer and Jury Claim of the Defendant, Bob's Discount Furniture, Inc.***, by mailing the same, postage prepaid, to counsel of record.

David Angueira, Esq.
Swartz & Swartz
10 Marshall Street
Boston, MA 02108



Dwight D. Valentine

FILED
U.S. DISTRICT COURT
DISTRICT OF MASS.
JAN 23 A 11:48
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January 21, 2004

Office of the Clerk
United States District Court
United States Courthouse
1 Courthouse Way
Boston, MA 02110

**Re: Johanz X. Santos v. Bob's Discount Furniture, Regent Home
Delivery, Agniliz Acostas and Raul Santos**
U.S. District Court Civil Action No. 03CV12210MLW

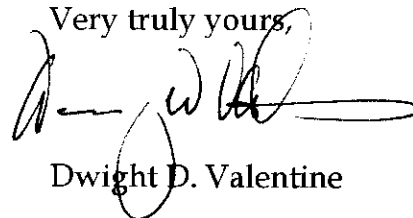
Dear Sir/Madam:

Enclosed for filing in the above-referenced matter please find the Answer and Jury Claim of the Defendant, Bob's Discount Furniture along with a Certificate of Service.

Kindly file in you customary manner.

Thank you.

Very truly yours,



Dwight D. Valentine

DDV:md

Enclosures

cc: David Angueira, Esq.
Renee Venne